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District of Nevada
9 *Attorney for United States*

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 WESTERN PROGRESSIVE – NEVADA,
INC.,

13 Plaintiff,

14 v.

15 THE UNITED STATES OF AMERICA (IRS);
16 C SCOTT GARDNER, an individual; TONYA
GARDNER, an individual; NEVADA
17 DEPARTMENT OF TAXATION; and DOES
1 through 50, inclusive,

18 Defendants.
19

Case No.: 2:19-cv-01141-JCM-DJA

STIPULATION OF PRIORITY OF
CLAIMS TO INTERPLEADER FUNDS
BETWEEN THE UNITED STATES OF
AMERICA AND THE NEVADA
DEPARTMENT OF TAXATION

20 Defendants the United States of America and the State of Nevada ex rel. its Department
21 of Taxation (“Nevada”) submit the following stipulation as to the priority of their claims to the
22 surplus proceeds at issue in this suit:
23

1 1. This stipulation is made with regard to the \$85,793.96 of surplus proceeds that
2 arose from the trustee's sale of the property previously owned by C. Scott and Tonya Gardner at
3 2003 Aspen Brook Drive, Henderson, Nevada 89074.

4 2. The United States submitted a claim (Doc. 9) for unpaid federal income tax from
5 Scott and Tonya Gardner for 2006 in the amount of \$67,466.82; for unpaid 26 U.S.C. § 6672 tax
6 from Scott Gardner for tax periods ending September 30, 2007; June 30, 2009; September 30,
7 2009; December 31, 2009; and September 30, 2010 in the total amount of \$23,629.34; and for
8 unpaid federal income tax from Scott Gardner for 2011 in the amount of \$6,904.05. The total
9 amount of the United States' claim was \$98,000.21 as of August 16, 2019. That amount
10 continues to accrue interest.

11 3. Nevada submitted a claim (Doc. 19) for unpaid state taxes from the period
12 beginning March 1, 2010 and ending December 31, 2013 in the total amount of \$287,543.41.

13 4. The United States and Nevada agree and stipulate that the United States' claim to
14 the interpleader funds has priority over Nevada's claim, and therefore the United States should
15 be paid first from the funds.

16 5. Because the interpleader funds are insufficient to cover all of the United States'
17 claim, all of the funds should be paid to the United States. Should it turn out that, for whatever
18 reason, the United States' claim is less than the interpleader funds and therefore excess funds
19 will exist after the United States' claim is paid, any such excess funds should be paid to Nevada.

20 6. After the Court enters an order approving this priority stipulation, the United
21 States will move to have the deposited funds distributed in accordance with the stipulated
22 priority.
23

1 7. This stipulation and the distribution of the interpleader funds does not affect the
2 validity of the United States' or Nevada's liens, and nothing in this stipulation will preclude any
3 party from attempting to collect any money owed to it by any other lawful means.

4 8. The parties shall bear their own fees and costs.

5 WHEREFORE the below parties stipulate and request an order confirming the foregoing.
6
7

8 DATED: October 9, 2019

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

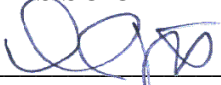
10 /s/ Alexander Stevko
ALEXANDER STEVKO
11 Trial Attorney, Tax Division
12 U.S. Department of Justice

13 NICHOLAS A. TRUTANICH
U.S. Attorney
14 District of Nevada
Attorneys for United States

15 DATED: October 9, 2019

/s/ David J. Pope (with permission)
16 DAVID J. POPE
17 Office of Nevada Attorney General
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18 (702) 486-3420
dpope@ag.nv.gov
19 *Attorney for Nevada Department of*
Taxation

20 IT IS SO ORDERED

21 
22 UNITED STATES MAGISTRATE JUDGE
23 DATED: October 11, 2019

1 **CERTIFICATE OF SERVICE**

2 I, Alexander Stevko, certify that on October 9, 2019, I filed the foregoing Stipulation the
3 Court's e-filing system, which will send electronic notification to the following:

4 **Shadd A. Wade**
5 swade@zbslaw.com
6 *Attorney for Western Progressive*

7 **David J. Pope**
8 dpope@ag.nv.gov
9 *Attorney for Nevada Department of Taxation*